

GIBSON DUNN

Gibson, Dunn & Crutcher LLP  
200 Park Avenue  
New York, NY 10166-0193  
Tel 212.351.4000  
www.gibsondunn.com

December 11, 2015

FILED ELECTRONICALLY VIA ECF

The Honorable J. Paul Oetken  
United States District Court for the Southern District of New York  
Room 2101  
40 Foley Square  
New York, NY 10007

Re: Wilfred v. Modany, et al., No. 13-cv-3110-(JPO)

Dear Judge Oetken:

We represent all parties in the above-referenced action. We are writing concerning the Stipulation and Order entered by the Court on September 16, 2015 (Dkt. 54), staying all of the proceedings in this shareholder derivative action for three months while the parties attempted to reach a resolution of this case through mediation. In the Stipulation and Order, the parties agreed to report back to the Court on the progress of their mediation efforts at the conclusion of that three-month period to determine if any further mediation efforts were warranted or if litigation proceedings should be resumed.

Since the time of the Order, the parties have been actively engaged in efforts to resolve this action. The parties are making good progress and believe that an extension of the stay for an additional six weeks will help facilitate these efforts. If the Court agrees to extend the stay, we will report back by January 27, 2016 as to the status of the parties' efforts or to establish a new schedule for the resumption of the case.

The parties are available to discuss these issues at the Court's convenience. Thank you for your consideration.

Respectfully submitted,

# GIBSON DUNN

December 11, 2015

Page 2

## GIBSON, DUNN & CRUTCHER LLP

By: 

Jennifer L. Conn

Jennifer L. Conn

JConn@gibsondunn.com

Brad Schoenfeldt

BSchoenfeldt@gibsondunn.com

200 Park Avenue

New York, NY 10166-0193

Phone: 212-351-4000

Fax: 212-351-4035

Wayne W. Smith, *admitted pro hac vice*

WSmith@gibsondunn.com

3161 Michelson Drive

Irvine, CA 92612-4412

Phone: 949-451-3800

Fax: 949-451-4220

*Attorneys for Defendants Kevin M. Modany,  
John F. Cozzi, Thomas I. Morgan, John E.  
Dean, James D. Fowler, Jr., Joanna T. Lau,  
Vin Weber, Samuel L. Odle, John A. Yena,  
Lloyd G. Waterhouse, Daniel M. Fitzpatrick*

## ALLEGAERT BERGER & VOGEL LLP

By: 

Christopher Allegaert

Christopher Allegaert

CAllegaert@abv.com

Richard Crisona

RCrisona@abv.com

111 Broadway, 20<sup>th</sup> Floor

New York, NY 10006

Phone: 212-571-0550

Fax: 212-571-0555

*Attorneys for Nominal Defendant  
ITT Educational Services, Inc.*

## LIFSHTITZ LAW FIRM

By: 

Joshua M. Lifshitz

Joshua M. Lifshitz (JL-9172)

JML@jllclasslaw.com

821 Franklin Ave.

Suite 209

Garden City, NY 11530

Phone: 516-493-9780

Fax: 516-280-7376

*Attorneys for Co-Lead Plaintiff*

*Sasha Wilfred*

## THE WEISER LAW FIRM, P.C.

By: 

Brett D. Stecker

Robert Weiser

RW@weiserlawfirm.com

Brett D. Stecker

BDS@weiserlawfirm.com

James Ficaro

JMF@weiserlawfirm.com

22 Cassatt Ave.

Berwyn, PA 19312

Phone: 610-225-2677

Fax: 610-408-8062

*Attorneys for Co-Lead Plaintiff*

*Janice Nottenkamper*